

REMARKS

Claims 1-59 are pending in this application. Reconsideration and further prosecution of the above-identified application are respectfully requested in view of the amendments, and the discussion that follows. Claims 1, 3-15, 17-21, 23-50 and 52-59 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 6,707,821 to Shaffer et al. ("Shaffer") in view of U.S. Patent No. 6,741,586 to Schuster et al. ("Schuster") and further in view of U.S. Pat. No. 7,046,643 to Zellner et al. ("Zellner"). Claims 2, 16, 22 and 51 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Shaffer in view of Schuster in view of Zellner and further in view of U.S. Pat. No. 6,904,037 to Oran et al. ("Oran"). Claims 4 and 9 have been amended. After a careful review of the specification and claims (as amended), it has been concluded that the claims are allowable and, therefore, Notice of Allowance is respectfully requested.

Claims 1, 3-15, 17-21, 23-50 and 52-59 have been rejected as being obvious over Shaffer in view of Schuster and Zellner. Independent claims 1, 15, 20, 31, 36, 44, 56, 57, 58 and 59 call for user selected, multiple predetermined packet priority. The Examiner asserts that Zellner teaches user selected packet priority. However, Zellner describes a pricing method of assigning transaction priority for transmissions to allow pricing corresponding to the priority. Zellner does not describe user selection of priority levels for data packets rather Zellner priorities are assigned to transactions to allow different pricing for different levels of transmission priority were

higher priority transactions are generally transmitted before lower priority transactions (Col. 2, lines 11-20; Col. 4, lines 5-7) during periods of congestion. The cited sections of Cols. 4, 5, 6 and 9 merely describe this transaction priority but does not describe multiple data packet priorities. Zellner's system while suitable to pricing on a transactions priority basis is not suitable for use in a packetized system where individual packets are divided and interspersed, as claimed. Thus, Zellner's pricing system does not suggest its use to prioritize packets for interspersed transmission of the packets. Further, since Zellner's pricing priority scheme based on transactions would be unsuitable for the interspersed packet system of the claimed invention and deals with an entirely different problem, there is no suggestion to combine Zellner with Shaffer or Schuster.

Since Zellner assigns priority based upon transactions for pricing purposes, the Zellner system does not teach or suggest the method step of (or have apparatus for) assigning . . . a user selected predetermined second priority level to data packets from a first data processing device of the plurality of data processing devices and a user selected third predetermined priority level to data packets from a second data processing device of the plurality of data processing devices.

Since neither Shaffer, Schuster, Zellner or Oron teach or suggest the above feature, the combination fails to teach each and every claim limitation. Since the combination fails to teach each and every claim limitation, the independent claims 1, 15, 20, 31, 36, 44, 56, 57, 58 and 59 are distinguishable over the cited references and are therefore believed to be allowable. All the remaining

claims are dependent upon the allowable independent claims and are therefore also believed to be allowable.

The Examiner has indicated that the dividing of data packets into random, non uniform size smaller packets is shown by Fig. 4 of Shaffer. However, Fig. 4 merely shows segmenting two data packets (DP1 & DP2 of Fig. 3) into eight smaller packets (Col. 2, lines 64-66) with a repeating pattern of 3 larger parts and one smaller part. Thus, it does not teach random segmenting, only a repeating predetermined pattern.

In addition, dependent claim 9 has been amended to claim data packets having a higher priority than voice packets (see, p. 5, last paragraph). This feature is also not disclosed by the cited references. Thus, claim 9 is believed to be further allowable for this additional reason.

Allowance of claims 1-59, as now presented, is believed to be in order and such action is earnestly solicited. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, he is respectfully requested to telephone applicant's undersigned attorney.

Respectfully submitted,
WELSH & KATZ, LTD.


By

James A. Scheer
Registration No. 29,434

August 30, 2006
WELSH & KATZ, LTD.
120 South Riverside Plaza
22nd Floor
Chicago, Illinois 60606
(312) 655-1500